

Exhibit 40

SUPREME COURT STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
ORCHARD HOTEL,

Index No.: 850044-11

Plaintiff(s),

-against-

NOTICE OF DEPOSITION
UPON ORAL EXAMINATION

D.A.B. GROUP, LLC, et al.,

Defendant(s).
-----X

PLEASE TAKE NOTICE, that pursuant to Article 31 of the Civil Practice Law and Rules the testimony, upon oral examination, of non party witness **JOANNE GALLO**, whose address is 11 Fifth Avenue, Apt. 11 C, New York, New York 10003 a non party will be taken before a notary public who is not an attorney, or employee of an attorney, for any party or prospective party herein and is not a person who would be disqualified to act as a juror because of interest or because of consanguinity or affinity to any party herein, at **FAVATA & WALLACE, LLP, 228 East 45th Street, 17th floor, New York, New York 10017** on the 3rd day of October, 2012 at 10:00 o'clock in the forenoon of that day with respect to evidence material and necessary in the -defense- of this action:

DATED: Garden City, New York
September 11, 2012

Respectfully submitted,

FAVATA & WALLACE, LLP

Attorneys for Defendant D.A.B. GROUP LLP

BY: 

William G. Wallace, Esq.
229 Seventh Street, Suite 300
Garden City, New York 11530
(516) 742-9494

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

ORCHARD HOTEL, X

Plaintiff(s),

INDEX NO.: 850044-11

-against-

Calendar No.:

D.A.B. GROUP, LLC, et al.,

JUDICIAL SUBPOENA

Defendant(s),

X

The People of the State of New York

TO: JOANNE GALLO

11 Fifth Avenue, Apt. 11 C
New York, New York 10003

GREETING:

*WE COMMAND YOU, that all business and excuses being laid aside, you and each of you appear and attend before **WILLIAM G. WALLACE, ESQ., FAVATA & WALLACE, LLP** at 228 East 45th Street, 17th floor, New York, New York 10017 on the 3rd day of October, 2012 at 10:00 o'clock in the fore noon, and at any recessed or adjourned date to give testimony in this action on the part of the Defendant, D.A.B. GROUP, LLC.*

Failure to comply with this subpoena is punishable as a contempt of Court and shall make you liable to the person on whose behalf this subpoena was issued for a penalty not to exceed fifty dollars and all damages sustained by reason of your failure to comply.

***WITNESS, Honorable CHARLES E. RAMOS** one of the Justices
of said Court, at 60 Centre Street, New York, New York the 30th day of August, 2012.*

FAVATA & WALLACE, LLP



BY: WILLIAM G. WALLACE, ESQ.

*Attorney for Defendant
229 Seventh Street, Suite 300
Garden City, New York 11530
(516) 742-9494*

SUPREME COURT STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
ORCHARD HOTEL,

Index No.: 850044-11

Plaintiff(s),

-against-

NOTICE OF DEPOSITION
UPON ORAL EXAMINATION

D.A.B. GROUP, LLC, et al.,

Defendant(s).
-----X

PLEASE TAKE NOTICE, that pursuant to Article 31 of the Civil Practice Law and Rules the testimony, upon oral examination, of non party witness **BRUCE GORDON**, whose address is a non party will be taken before a notary public who is not an attorney, or employee of an attorney, for any party or prospective party herein and is not a person who would be disqualified to act as a juror because of interest or because of consanguinity or affinity to any party herein, at **FAVATA & WALLACE, LLP, 228 East 45th Street, 17th floor, New York, New York 10017** on the 3rd day of October, 2012 at 12:00 o'clock in the forenoon of that day with respect to evidence material and necessary in the -defense- of this action:

DATED: Garden City, New York
September 11, 2012

Respectfully submitted,

FAVATA & WALLACE, LLP

Attorneys for Defendant D.A.B. GROUP LLP

BY: 

William G. Wallace, Esq.
229 Seventh Street, Suite 300
Garden City, New York 11530
(516) 742-9494

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

ORCHARD HOTEL,

Plaintiff(s),

X

INDEX NO.: 850044-11

-against-

Calendar No.:

D.A.B. GROUP, LLC, et al.,

Defendant(s),

X

JUDICIAL SUBPOENA

The People of the State of New York

TO: BRUCE GORDON

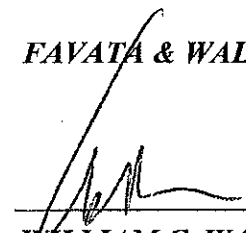
GREETING:

WE COMMAND YOU, that all business and excuses being laid aside, you and each of you appear and attend before WILLIAM G. WALLACE, ESQ., FAVATA & WALLACE, LLP at 228 East 45th Street, 17th floor, New York, New York 10017 on the 3rd day of October, 2012 at 12:00 o'clock in the fore noon, and at any recessed or adjourned date to give testimony in this action on the part of the Defendant, D.A.B. GROUP, LLC.

Failure to comply with this subpoena is punishable as a contempt of Court and shall make you liable to the person on whose behalf this subpoena was issued for a penalty not to exceed fifty dollars and all damages sustained by reason of your failure to comply.

WITNESS, Honorable CHARLES E. RAMOS one of the Justices of said Court, at 60 Centre Street, New York, New York the 30th day of August, 2012.

FAVATA & WALLACE, LLP



BY: WILLIAM G. WALLACE, ESQ.
Attorney for Defendant
229 Seventh Street, Suite 300
Garden City, New York 11530
(516) 742-9494

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

ORCHARD HOTEL,

Plaintiff(s),

INDEX NO.: 850044-11

-against-

Calendar No.:

D.A.B. GROUP, LLC, et al.,

Defendant(s),

JUDICIAL SUBPOENA

X

The People of the State of New York

TO: RICHARD MAHER

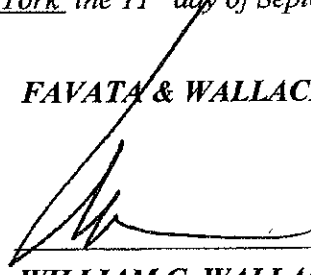
GREETING:

WE COMMAND YOU, that all business and excuses being laid aside, you and each of you appear and attend before WILLIAM G. WALLACE, ESQ., FAVATA & WALLACE, LLP at 228 East 45th Street, 17th floor, New York, New York 10017 on the 16th day of October, 2012 at 12:00 o'clock in the fore noon, and at any recessed or adjourned date to give testimony in this action on the part of the Defendant, D.A.B. GROUP, LLC.

Failure to comply with this subpoena is punishable as a contempt of Court and shall make you liable to the person on whose behalf this subpoena was issued for a penalty not to exceed fifty dollars and all damages sustained by reason of your failure to comply.

WITNESS, Honorable CHARLES E. RAMOS one of the Justices of said Court, at 60 Centre Street, New York, New York the 11th day of September, 2012.

FAVATA & WALLACE, LLP



BY: WILLIAM G. WALLACE, ESQ.
Attorney for Defendant
229 Seventh Street, Suite 300
Garden City, New York 11530
(516) 742-9494

**SUPREME COURT STATE OF NEW YORK
COUNTY OF NEW YORK**

-----X
ORCHARD HOTEL,

Index No.: 850044-11

Plaintiff(s),

-against-

**NOTICE OF DEPOSITION
UPON ORAL EXAMINATION**

D.A.B. GROUP, LLC, et al.,

Defendant(s).
-----X

PLEASE TAKE NOTICE, that pursuant to Article 31 of the Civil Practice Law and Rules the testimony, upon oral examination, of non party witness **RICHARD MAHER**, whose address is 143 Walker Road, Mineola, New York 11501 a non party will be taken before a notary public who is not an attorney, or employee of an attorney, for any party or prospective party herein and is not a person who would be disqualified to act as a juror because of interest or because of consanguinity or affinity to any party herein, at **FAVATA & WALLACE, LLP, 228 East 45th Street, 17th floor, New York, New York 10017** on the 16TH day of October, 2012 at 12:00 o'clock in the forenoon of that day with respect to evidence material and necessary in the -defense- of this action:

**DATED: Garden City, New York
September 26, 2012**

Respectfully submitted,

FAVATA & WALLACE, LLP

Attorneys for Defendant D.A.B. GROUP LLP

BY: 

William G. Wallace, Esq.

229 Seventh Street, Suite 300

Garden City, New York 11530

(516) 742-9494